

REMARKS

Claims 1-12 and 15-42 were pending in the Office Action. Upon entry of the present paper, claims 1, 8, 16, 22, 26, 30 and 32 are amended, claims 2-4 and 9-11 are canceled without prejudice, and new claims 43-48 are added. No new matter is introduced.

In the Office Action, claim 1 was rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement, while all claims were rejected 35 U.S.C. 103(c) as being unpatentable over Gibbons et al. (U.S. Patent Application Publication No. 2004/0034853).

The Rejection Under 35 U.S.C. 112, First Paragraph

Claim 1 stands rejected as failing to comply with the written description requirement. Without acquiescing in the rejection, Applicant has replaced the wording at issue with wording from claim 22, which was not deemed objectionable, so Applicant submits that this rejection is now rendered moot.

The Rejection Under 35 U.S.C. 103(c)

The Office maintains the rejections in view of Gibbons et al., despite the prior agreement in the Sept. 8, 2008, Interview Summary that Gibbons et al. fails to teach or suggest “not displaying the link” for the descriptor. Gibbons et al. actually teaches the opposite in paragraph [0076] (“The list provided by the DA displays information about the DO and provides a link with a URI to initiate the DO download.”). Nevertheless, the Office contends that the display or non-display of the link is a mere design choice. The Office cites no additional evidence to support modifying Gibbons et al. in this way.

References must be read as a whole, and conflicting teachings in the prior art must be weighed to determine what is reasonable. MPEP 2142 (“... the examiner must provide evidence which as a whole shows that the legal determination sought ... is more probable than not.”); and 2143.01 (II) (conflicting teachings must be weighed). “When the prior art teaches away from combining certain known elements, discovery of successful means of combining them is more likely to be nonobvious.” MPEP 2143 (quoting KSR International Co. v. Teleflex Inc., 550 US 398, 82 USPQ2d 1385, 1395 (2007)).

Here, in weighing the conflicting teachings, the Office admits that Gibbons et al. describes displaying the link, but then concludes that not displaying the link is also somehow disclosed. Gibbons et al. displays its link for a reason: it allows users to choose the application they want. Why would one of ordinary skill ever think, based on Gibbons et al., that this link would not be displayed? The Office's only rationale for its modification of this reference is to simply say that it could have been done as a mere design choice. Merely saying that a feature is within the level of ordinary skill is not enough. See MPEP 2143(IV). In weighing the conflicting evidence, there simply is insufficient basis to conclude that one of ordinary skill, following the teachings of Gibbons et al., would choose to ignore this particular part of Gibbons et al.

In view of the above, Gibbons et al. does not teach or suggest the following features from the independent claims:

- “displaying, at the client device, information identifying the at least one application choice, but not the corresponding link,” as recited in amended independent claim 8
- “wherein the client device is further configured to display information identifying each available application, without displaying the link to the application descriptor for each respective application,” as recited in amended independent claim 16
- “wherein the application information includes information to be displayed at the client device, and the link is not to be displayed at the client device,” as recited in amended independent claims 22 and 30
- “displaying information describing the at least one application, but not the corresponding link,” as recited in amended independent claims 26 and 32

This, however, is not the only distinguishing feature in the claims. All of the independent claims have also been amended to recite additional features regarding whether a separate application is used. For example, amended independent claim 1 recites “receiving from a client device an initiation request for information describing available application choices, the request being initiated via a single user interface without use of a separate application from the application choices.” Applicant submits that Gibbons et al. also fails to show this feature.

In Gibbons et al., the download application (DA) is a completely separate application whose purpose is to obtain the list of available download objects (DO). See, e.g., para. [0075]. Applicant's claim 1 method does not recite such a separate application, and now recites using "a single user interface without use of a separate application from the application choices." Accordingly, Applicant submits that amended independent claim 1 is distinguishable over Gibbons et al. for this reason as well. Similarly, the other independent claims recite the following, and are distinguishable as well:

- "the request being initiated via a single user interface without use of a separate application from the application choices" (independent claims 8, 16, 22, 26, 30, 32)

The remaining claims depend from one of these independent claims, and are distinguishable for at least the same reasons as their respective base independent claims, and further in view of the various features recited therein. For example, new claims 43 and 46 recite features relating to a clarification request; claims 44 and 47 recite an additional query; and claims 45 and 48 recite features involving a web site and a mobile phone number. These features are also distinguishable over Gibbons et al.

CONCLUSION

In view of the above amendments and remarks, reconsideration of all pending claims in the application is respectfully requested. All rejections having been addressed, Applicants respectfully submit that the application is in condition for allowance and respectfully request prompt notification of the same.

If the Examiner should have any questions or if there is anything that can be readily address over the telephone, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

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